

CHAPTER 752

CORRECTIVE, DISCIPLINARY AND ADVERSE ACTIONS

SUBCHAPTER 1

INFORMATION AND GENERAL REQUIREMENTS

1. **PURPOSE.** This Chapter outlines the options available to management to direct, correct, discipline or remove an employee and the legal rights of employees against whom action is necessary.
2. **ASSISTANCE.** Please refer to Chapter 001 of this Manual for the telephone number to call for additional information or further assistance relative to this Subchapter.
3. **CONTENTS.** This Chapter is divided into 4 Subchapters and 3 Appendices.

Subchapter 1 - Information and General Requirements

Subchapter 2 - Oral Admonishment
Written Direction and Correction

Subchapter 3 - Letter of Reprimand
Suspension of 14 Days or Less

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Reduction in Pay
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Appendix A - Guidance in Exercising Options in Chapter 752

Appendix B - Navy Guideline on Disciplinary Offenses and Recommended Remedies

Appendix C - Conducting Pre-action Investigations

Appendix D - Supervisor's Guide for Cases of Suspected Intoxication on the Job

Appendix E - Competence for Duty Examination (NAVMED 6120/1)

4. **COVERAGE.** This Chapter applies to all Department of the Navy (DON) employees with certain exceptions, which include:

- a. Employees of non-appropriated fund instrumentalities.
- b. Civilian mariners covered under Civilian Marine Personnel Instructions.

5. **EXCLUSIONS.** The following matters are excluded from coverage under Chapter 752:

- a. A suspension or removal taken in the interest of national security.
- b. A reduction-in-force action.
- c. The reduction in grade of a supervisor or manager who has not satisfactorily completed the probationary period, if such reduction is to the grade held immediately before becoming a supervisor or manager.
- d. The separation of an employee serving a probationary period following initial appointment to a competitive position (see Chapter 315, of this Manual).
- e. An action initiated under authority of the Special Counsel or taken at the direction of the Merit Systems Protection Board.
- f. An action which entitles an employee to grade retention and an action to terminate this entitlement.
- g. A voluntary action initiated by the employee.
- h. An action taken or directed by OPM for suitability reasons.
- i. Termination of appointment on the expiration date specified as a condition of employment at the time the appointment was made.
- j. Action which terminates a temporary promotion within a maximum period of two years and returns the employee to the position from which temporarily promoted, or reassigns or demotes the employee to a different position not at a lower grade or level than the position from which temporarily promoted.
- k. An action which terminates a term promotion at the completion of the project or a specified period, or at the end of a rotational assignment in excess of two years but not more than five years, and returns the employee to the position from which promoted or to a position of equivalent grade and pay.
- l. Cancellation of a promotion to a position not classified prior to the promotion.

m. Placement of an employee serving on an intermittent, part-time, or seasonal basis in a non-duty, non-pay status in accordance with conditions established at the time of appointment.

n. Reduction of an employee's rate of pay from a rate which is contrary to law or regulation to a rate which is required or permitted by law or regulation.

o. An action against a re-employed annuitant.

p. Reassignment from a position with known promotion potential to a position with no known promotion potential.

q. Termination of long term training under 5 CFR 410.

6. RESPONSIBILITIES

a. *Activity Heads* are delegated authority by the Secretary of the Navy to take the actions described in this Chapter. This authority should be re-delegated to the extent deemed appropriate by the Activity Head. Each Activity Head should specify, in writing, the re-delegation of authority to subordinate managers and supervisors within the activity. A copy of the delegation should be furnished to those to whom authority is delegated and to the Human Resources Office (HRO), Norfolk.

b. *The Director, HRO Norfolk* is responsible for providing professional guidance to managers exercising the options outlined in this Chapter and to employees on their rights to contest them. HRO Norfolk shall maintain all records required by the Secretary of the Navy on matters in this Chapter.

7. **EMPLOYEES' RIGHT TO REPRESENTATION.** There may be occasions when the activities of an individual acting as an employee's representative could cause a conflict of interest or position, or create an undue hardship on the employing activity. In such cases, a responsible official within an activity either involved in taking an action, or acting as a deciding official, may disallow the person to act as an employee's representative. If the employee wishes to contest the decision to disallow the representative of choice, the employee shall address the request in writing within 5 days to the next higher level in the chain of command, over the person who made the decision to disallow the representative.

8. **TIME.** Time in this Chapter is counted in calendar days. "Days" means calendar days.

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SUBCHAPTER 2 ORAL ADMONISHMENT LETTER OF CAUTION LETTER OF REQUIREMENT

1. DEFINITIONS

a. *Oral Admonishment.* An oral (non-written) correction by a superior official of an employee's improper conduct.

b. *Letter of Caution.* A written warning that continued instances or patterns of unacceptable behavior or performance may lead to disciplinary action.

c. *Letter of Requirement.* Imposes a requirement on an individual employee that is not made on other members of the work force. Letters of requirement are written orders.

2. CONDITIONS FOR USE

a. May be considered in determining the appropriate remedy within a range for any subsequent offense but will not be made a matter of record in the employee's Official Personnel Folder.

b. Will not be counted as a prior offense when determining a range of remedies under Appendix B of this Chapter.

3. **RIGHT TO REPRESENTATION.** No right of representation exists except as may be provided by a negotiated agreement between activity management and a labor organization.

4. **GRIEVANCE RIGHTS.** Unless provided by the terms of a negotiated agreement, oral admonishments and letters of caution are not grievable. Because letters of requirement impose conditions over and above those applicable to other employees, they are grievable under the procedure outlined in Chapter 771 of this Manual or a negotiated grievance procedure, as appropriate.

5. **APPEAL RIGHTS.** None.

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SUBCHAPTER 3 LETTER OF REPRIMAND SUSPENSION OF 14 DAYS OR LESS

1. DEFINITIONS

a. *Letter of Reprimand.* A written remedy by a supervisor for an employee's improper conduct. In certain situations, this type of letter may be appropriate for performance deficiencies.

b. *Suspension.* The placing of an employee in a temporary status without duties or pay for disciplinary reasons. Suspensions are counted in calendar days.

2. CONDITIONS FOR USE

a. *Letter of Reprimand*

(1) Each letter of reprimand will:

(a) Specify the reasons for its issuance.

(b) Specify the employee's right to file a written grievance through the procedures established in Chapter 771 of this Manual, or file a grievance under a negotiated grievance procedure, as appropriate.

(c) State the length of time, not less than one nor more than two years, that the letter will be made a matter of record in the employee's Official Personnel Folder.

(d) State that the letter of reprimand may be counted as a prior offense when determining a remedy under Appendix B of this Chapter.

(2) Reprimands over two (2) years old may not be counted as a prior offense, but may be considered in determining the appropriate remedy within a range for any subsequent offense.

b. An employee against whom a *suspension of 14 days or less* is proposed is entitled to:

(1) An advance written notice stating:

(a) The specific reasons for the proposed action.

(b) The name and title of the official designated to hear an oral reply and/or receive the written reply (the official so designated must have authority to either make or recommend a final decision on the proposed disciplinary action).

(c) The amount of time, but not less than 24 consecutive hours, allowed to answer orally and/or in writing and to furnish affidavits and other documentary evidence in support of the answer.

(d) The right of the employee and/or the employee's representative to review the material which is relied upon to support the reasons given in the notice.

(e) A reasonable amount of official time to review the material relied upon to support the proposal, to prepare an answer and to secure affidavits, if the employee is otherwise in a duty status.

(f) The right to be represented by an attorney or other representative.

(2) A written decision at the earliest practicable date which:

(a) considers only the reasons specified in the notice of proposed action.

(b) specifies the reasons for the decision.

(c) considers any answer of the employee and/or the employee's representative made to a designated official.

(d) states that the suspension may be counted as a prior offense indefinitely.

(e) is signed by an official in a higher position than the official who proposed the action, unless the Activity Head issued the advance notice, in which case the Activity Head may issue the written decision.

(f) specifies the employee's right to contest the action within 15 calendar days through the Administrative Grievance System (see Chapter 771 of this Manual) or under a negotiated grievance procedure, as appropriate.

(g) is delivered to the employee on or before the date the suspension is to begin.

3. RIGHT TO REPRESENTATION

a. During pre-action investigations:

(1) The employee is in a bargaining unit. The language of the applicable contract will specify whether the employee must request representation or be advised of the right to representation.

(2) The employee, while not in a bargaining unit, requests representation. The employee's request to be represented by a person of his/her choice may be granted at management's discretion. See Subchapter 1 of this chapter regarding disallowing representatives.

b. Representation rights at the oral response stage will be stated in a written notice to the employee.

4. **GRIEVANCE RIGHTS.** Employees in a bargaining unit covered by a negotiated agreement have those rights stated in the agreement. Employees not covered by a negotiated agreement have grievance rights through the Administrative Grievance System discussed in Chapter 771 of this Manual.

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SUBCHAPTER 4 REDUCTION IN GRADE REDUCTION IN PAY FURLOUGH FOR 30 DAYS OR LESS SUSPENSION OF MORE THAN 14 DAYS INDEFINITE SUSPENSION REMOVAL

- NOTES:** (1) In most cases, reduction in grade or removal based solely on unacceptable performance is covered by Chapter 432 of this Manual.
- (2) The options described in this Subchapter are the most complicated of all actions taken against employees. It is essential that each such action be taken for sufficient cause and in compliance with law and regulation. For these reasons, no action should be taken without the professional guidance of Human Resources Office (HRO), Norfolk.

1. DEFINITIONS

- a. *Reduction in Pay.* A reduction in the rate of basic pay fixed by law or administrative action for the position held by an employee.
- b. *Reduction in Grade.* A reduction to a lower grade level of classification under a position classification system.
- c. *Furlough for 30 Days or Less.* The placing of an employee in a temporary status without duties and pay because of a lack of work or funds or other non-disciplinary reasons. NOTE: Furlough in excess of 30 days is handled under reduction-in-force procedures.
- d. *Suspension of More than 14 days.* The placing of an employee in a temporary status without duties or pay for a specified number of days for disciplinary reasons.
- e. *Indefinite Suspension.* The placing of an employee in a non-duty, non-pay status for an unspecified number of days pending the resolution or outcome of a matter involving the employee.
- f. *Removal.* The involuntary separation of an employee from the activity except when taken as a reduction-in-force action.

2. CONDITIONS FOR USE

a. Before effecting any action described in this Subchapter, the employee must be given at least 30 days advance written notice while in a duty status. The only exceptions are if:

(1) There is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed. When the crime provision is invoked, a proper official may effect an action in less than 30 days following the advance written notice. The official may require the employee to furnish any answer to the proposed action and affidavits and other documentary evidence in support of the answer within such time as under the circumstances would be reasonable, but not less than seven days. When the circumstances require immediate action, the official may place the employee in a non-duty status with pay for such time as is necessary to effect the action.

(2) Furlough without pay or administrative leave is necessary due to unforeseen circumstances such as sudden breakdowns of equipment, acts of nature, or sudden emergencies requiring immediate curtailment of activities.

(3) If the circumstances are such that retention of the employee in a duty status during the notice period may be injurious to the employee, fellow workers, or the general public, may result in loss or damage to government property, the nature of the employee's offense may reflect unfavorably on the public perception of the Department of the Navy (DON), or would otherwise jeopardize government interests, the employee may be placed in a non-duty pay status during the notice period. Generally, when the circumstances require immediate action, the official may place the employee in a non-duty status with pay for such time as is necessary to effect the action. Excused absence for this purpose should be used only in rare circumstances and care should be exercised to use the minimum amount of excused absence necessary in any individual situation. The advance written notice will include the reasons for not retaining the employee in a duty status during the notice period.

b. The notice must conform to the following requirements:

(1) State the specific reasons for the proposed action.

(2) Specify the name and title of the official designated to hear an oral reply and/or receive the written reply (the official so designated must have authority to either make or to recommend a final decision on the proposed action).

(3) Specify a reasonable time, but not less than 7 days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer. Employees in receipt of an advance notice may request additional time to respond orally and in writing. The official designated to accept the response may make a decision regarding such a request. A summary or verbatim transcript of the employee's oral reply, if any, must be made and placed in the official file. A copy shall be furnished to the employee or his/her representative, as appropriate.

(4) State the right of the employee or the employee's representative to review the material which is relied upon to support the reasons given in the notice.

(5) If appropriate, state the basis for selecting a particular employee for furlough, when some but not all employees in a given competitive level are being furloughed, and the reason for the furlough.

(6) Provide a reasonable amount of official time to review the material relied upon to support the proposal and to prepare an answer and to secure affidavits, if the employee is otherwise in a duty status.

(7) Inform the employee of the right to be represented by an attorney or other representative.

c. Render a written decision at the earliest practicable date which:

(1) Considers only the reasons specified in the notice of proposed action.

(2) Explains the reasons for the decision.

(3) Considers any answer of the employee and/or the employee's representative made to a designated official.

(4) Is signed by an official in a higher chain of command position than the official who proposed the action (if the Activity Head signed the advance written notice, the Activity Head may sign the written decision).

(5) Specifies the employee's right of appeal to the Merit Systems Protection Board (MSPB) and the right, when applicable, to file a grievance under a specific negotiated grievance procedure, but not both.

(6) States the time limit for filing an appeal with the MSPB.

(7) Provides a copy of the MSPB regulations, a copy of the MSPB appeal form and the address to which it should be sent.

(8) Is delivered to the employee on or before the effective date of the proposed action.

3. **RIGHT TO REPRESENTATION.** An employee in receipt of a notice of proposed/adverse action or a written decision may be represented by an attorney or any other person of his/her choice, unless disallowed by a proper official.

4. **GRIEVANCE RIGHTS.** None, except for employees in a unit covered by a negotiated agreement. Employees in such a unit have those rights stated in the agreement. If an employee is

in this category, he/she may elect to appeal to MSPB, or under the provisions of the negotiated grievance procedure, but not both. The initial election of the employee is final.

5. APPEAL RIGHTS. The following employees have appeal rights to MSPB:

a. An individual in the competitive service who is not serving a probationary or trial period under an initial appointment, or who has completed one year of current continuous employment under other than a temporary appointment limited to one year or less.

b. A non-preference eligible who has completed two years of current continuous service in the same or a similar position within the Executive Department.

c. A preference eligible who has completed one year or more of current continuous service.

6. EQUAL EMPLOYMENT OPPORTUNITY (EEO) COMPLAINT. An employee who alleges discrimination may do one of the following:

a. File under procedures in a negotiated agreement, if in a bargaining unit represented by a labor organization; or

b. Elect to file an EEO complaint with DON; or

c. Elect to appeal to MSPB, including the allegation of discrimination.

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APPENDIX A GUIDANCE IN EXERCISING OPTIONS DISCUSSED IN CHAPTER 752

1. **PURPOSE.** The purpose of Appendix A is to provide advice and guidance to supervisors and managers in effecting disciplinary actions.
2. **DEPARTMENT OF THE NAVY (DON) PHILOSOPHY OF DISCIPLINE.** Discipline is a managerial tool intended to correct deficiencies in employee behavior and attitude, correct situations which interfere with efficient operations, maintain high standards of government service and maintain public confidence in the DON. It is not the philosophy of DON to utilize disciplinary measures for the sole purpose of punishing employees. An employee whose behavior is not acceptable to management, but whose behavior is not corrected is quite likely to persist in that unacceptable behavior in the erroneous belief that it is correct, or at least condoned. Supervisors and managers have an obligation to such employees to correct behavioral deficiencies while they are still minor and before the behavior becomes a habit and a bad example to others. It is easier to correct a first instance of deficient behavior than to ignore the situation and later try to correct the third, fourth, or fifth instance. It is easier and better management to correct a minor case of deficient behavior than to ignore the situation and allow the problem to become a major one.
3. **CONSIDERATIONS IN SELECTING A PROPER COURSE OF CORRECTIVE ACTION.** In the case of Douglas v. Veterans Administration, the Merit Systems Protection Board (MSPB) described a number of factors that may be relevant in determining appropriate discipline in particular cases. These factors, commonly referred to as the Douglas Factors, are provided for the consideration of supervisors and managers who may be faced with the task of selecting an appropriate course of action. It should be noted that not all factors will be pertinent to each and every case and the list is not inclusive. Selection of the penalty requires a responsible balancing of those factors relevant to the specific situation. The Douglas Factors are the:
 - a. Nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated.
 - b. Employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position.
 - c. Employee's past disciplinary record.

d. Employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability.

e. Effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon supervisors' confidence in the employee's ability to perform assigned duties.

f. Consistency of the penalty with those imposed upon other employees for the same or similar offenses.

g. Consistency of the penalty with the applicable agency table of penalties.

h. Notoriety of the offense, or its impact upon the reputation of the agency.

i. Clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question.

j. Potential for employee's rehabilitation.

k. Mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter.

l. Adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

4. ALTERNATIVE COURSES OF ACTION. Instances of employee misconduct should never go unattended. All misconduct, however, does not necessarily warrant formal disciplinary action. Other forms of correction available are:

a. *Explanation or Training.* If the employee is unaware of the proper performance or conduct, it may be that training, or perhaps a sound explanation, will be sufficient to correct the problem. This alternative is particularly likely to be appropriate when the employee is new or working in an unfamiliar environment.

b. *Civilian Employee Assistance Program.* As a general rule it is in the best interests of both DON and the employee to rehabilitate rather than remove. Misconduct is not always willful. Sometimes it stems from alcoholism, misuse of drugs, or other personal problems which may be helped through the Civilian Employee Assistance Program (CEAP). A supervisor should seek to learn enough to make a determination whether to refer an employee to a CEAP counselor, take disciplinary action, or do both concurrently.

c. *Letter of Caution.* Sometimes a supervisor may want to warn an employee that continued instances of misbehavior or unacceptable performance may lead to disciplinary action. These letters are not disciplinary or adverse actions. The warning is prospective only and is generally not grievable (see Subchapter 2 of this Chapter). However, it may be grievable if the employee

is covered by a negotiated agreement which does not exclude letters of caution from the negotiated grievance procedure.

d. *Letter of Requirement.* In cases where the leave privilege is abused, a supervisor may wish to impose requirements over an individual which do not apply to the rest of the work force. This can be done by a letter of requirement which establishes the precise circumstances under which leave will be approved or precisely what performance is required (see Subchapter 2 of this Chapter).

5. SPECIAL DISCIPLINARY SITUATIONS

a. *Indebtedness.* DON expects its employees to pay their just debts. When they do not, disciplinary action may be necessary. However, a suspension is normally not an action used for indebtedness since a suspension would only further reduce an employee's ability to pay the debt. It is generally better to issue one or more letters of reprimand, depending upon the circumstances. If the letters are ineffective, it may be appropriate to initiate removal action.

b. *Leave Abuse.* If an employee is absent without permission, he/she should be charged with Absence Without Leave (AWOL). A charge of AWOL will support a disciplinary action. However, an instance of AWOL does not automatically require disciplinary action. An employee who is AWOL is not paid for the period of unapproved absence. Therefore, a supervisor may determine that the loss of pay is sufficient to prevent such absences in the future. Leave Without Pay (LWOP) is unpaid absence that has been requested by the employee and approved by the supervisor. Except in unusual cases, disciplinary action would not be taken in connection with LWOP.

c. *Non-Duty Status with Pay.* Sometimes the actions or conduct of an employee will represent a threat to life, health or government property and it will be necessary to get the employee out of the worksite while a disciplinary action is being processed. In such instances it is permissible to place the employee in a non-duty status with pay for the minimum period necessary.

d. *Drug and Alcohol Abuse Offenses.* An employee who engages in misconduct involving drugs and/or alcohol shall be disciplined in accordance with the provisions outlined in Appendix B of this Chapter unless the employee voluntarily refers himself/herself as a user of illegal drugs under the "safe harbor" provision of DON's Drug-Free Workplace Program provided that activity management was otherwise unaware of such activity. (See Chapter 792, of this Manual for specific information.)

e. *Voluntary Action by Employee.* An employee who is confronted by management with a potential disciplinary situation will sometimes volunteer to accept a lower grade, a reassignment, or resign in lieu of disciplinary action. There is nothing wrong with this provided management has not coerced the employee into taking such an action. Great care should be taken to avoid the appearance of coercion. It is permissible to tell an employee that a removal action is contemplated. It is not permissible to say the employee must resign or a removal will

be proposed. The latter example is coercion. If the employee asks if he/she can resign or what the effect of resignation on the action being taken would be, refer the employee to HRO Norfolk.

Employees who believe they were coerced into resigning or involuntarily taking a change to lower grade may file an appeal with MSPB.

f. Performance Related Adverse Actions. Where an employee's deficiencies are performance related rather than due to misconduct, that employee may be demoted or removed either through the procedures described in Chapter 432 of this manual, or through the adverse action procedures outlined in Subchapter 4 of this Chapter. (See Chapter 432 of this Manual for details on performance-based actions.)

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APPENDIX B GUIDELINE SCHEDULE OF DISCIPLINARY OFFENSES AND RECOMMENDED REMEDIES FOR CIVILIAN EMPLOYEES IN THE NAVAL ESTABLISHMENT

INSTRUCTION FOR USE OF THE SCHEDULE

1. This list is not intended to cover every possible type of offense. Remedies for offenses not listed will be determined consistent with the guidelines.
2. Many of the items on this schedule combine several offenses in one statement connected by the word "OR." Usage of the word "OR" in a charge makes it nonspecific. Use only the items which describe the employee's actual conduct and leave out parts which do not apply.
3. Remedies for disciplinary offenses will, in general, range from the minimum to the maximum indicated. In unusual circumstances, depending on mitigating to aggravating factors, a remedy outside the general range may be imposed.
4. Suspension remedies on this schedule refer to calendar days.
5. Although the schedule shows 10 days as a normal maximum suspension, a suspension of greater length may be imposed where the option of removal is also provided for that offense.
6. In considering past offenses in determining a remedy the following limitations must be observed:
 - a. Oral admonishments and letters of caution may not be counted as prior offenses in determining a remedy. They may be considered in determining the appropriate penalty within a range of remedies for any subsequent offense.
 - b. A letter of reprimand may be counted as a prior offense provided the letter of reprimand is dated no more than two years before the date of the proposed notice of action in which it is cited. After this two year period, it may be used to determine the appropriate penalty within a range for any subsequent offense.
 - c. A suspension or reduction in grade or pay (if effected for disciplinary reasons) may be counted indefinitely as a prior offense.
 - d. In utilizing past offenses to determine a corrective action, the disciplinary action notice should cite specifically the past offense in sufficient detail to allow the employee to respond.
 - e. Any past offense may form the basis for proposing a remedy from the next higher range of remedies for a subsequent offense. The offenses do not need to be identical or similar.

SCHEDULE OF OFFENSES AND RECOMMENDED REMEDIES

OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE
ALCOHOL ABUSE			
UNAUTHORIZED POSSESSION, SALE OR TRANSFER OF ALCOHOL ON DUTY OR ON A MILITARY SHIP, AIRCRAFT, OR INSTALLATION	14-day suspension to removal	30-day suspension to removal	Removal
USE OF, OR BEING UNDER THE INFLUENCE OF, ALCOHOL ON DUTY OR ON A MILITARY SHIP, AIRCRAFT, OR INSTALLATION	14-day suspension to removal	30-day suspension to removal	Removal
ATTENDANCE			
EXCESSIVE UNAUTHORIZED ABSENCE (MORE THAN 5 CONSECUTIVE WORKDAYS)	Reprimand to removal	10-day suspension to removal	Removal
LEAVING JOB TO WHICH ASSIGNED OR DEPARTMENT OF THE NAVY PREMISES AT ANY TIME DURING WORKING HOURS WITHOUT PROPER AUTHORIZATION	Reprimand to 5-day suspension	Reprimand to 10-day suspension	Reprimand to removal
UNEXCUSED OR UNAUTHORIZED ABSENCE ON ONE OR MORE SCHEDULED DAYS OF WORK OR ASSIGNED OVERTIME	Reprimand to removal	5-day suspension to removal	10-day suspension to removal
UNEXCUSED TARDINESS	Reprimand	Reprimand to 5-day suspension	Reprimand to removal
DISCRIMINATION			
DISCRIMINATION AGAINST AN EMPLOYEE OR APPLICANT BASED ON RACE, COLOR, RELIGION, SEX, HANDICAP, NATIONAL ORIGIN OR AGE, OR ANY REPRISAL OR RETALIATION ACTION AGAINST A COMPLAINANT, REPRESENTATIVE, WITNESS, OR OTHER PERSON INVOLVED IN THE EEO COMPLAINT PROCESS	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
SEXUAL HARASSMENT	Reprimand to removal	14-day suspension to removal	30-day suspension to removal

OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE
DRUG ABUSE			
UNLAWFUL USE OR POSSESSION OF DRUGS OR DRUG PARAPHERNALIA ON OR OFF DUTY	Reprimand to removal	Removal	
UNLAWFUL DISTRIBUTION, SALE, OR TRANSFER OF DRUGS OR DRUG PARAPHERNALIA ON OR OFF DUTY	Removal		
UNLAWFUL USE OR POSSESSION OF DRUGS OR DRUG PARAPHERNALIA ON A MILITARY SHIP OR AIRCRAFT	Removal		
DRUG TESTING			
REFUSAL TO PROVIDE A URINE SAMPLE WHEN REQUIRED	Reprimand to removal	Removal	
SUBSTITUTING, ADULTERATING OR OTHERWISE TAMPERING WITH A URINE SAMPLE, TESTING EQUIPMENT OR RELATED PARAPHERNALIA	30-day suspension to removal	Removal	
ATTEMPTED OR ACTUAL FALSIFICATION, MISSTATEMENT OR CONCEALMENT OF A MATERIAL FACT, RECORD, CORRESPONDENCE OR OTHER COMMUNICATION PREPARED IN CONNECTION WITH THE COLLECTION, HANDLING, TRANSPORTATION OR TESTING OF URINE SAMPLES	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
MISCELLANEOUS OFFENSES			
BETTING, GAMBLING, OR THE PROMOTION THEREOF ON DUTY OR ON DEPARTMENT OF THE NAVY PREMISES	Reprimand to removal	5-day suspension to removal	10-day suspension to removal
CARELESS WORKMANSHIP RESULTING IN DELAY IN PRODUCTION OR SPOILAGE OR WASTE OF MATERIALS	Reprimand to removal	5-day suspension to removal	10-day suspension to removal
CRIMINAL, DISHONEST, INFAMOUS OR NOTORIOUSLY DISGRACEFUL CONDUCT	Reprimand to removal	14-day suspension to removal	30-day suspension to removal

OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE
MISCELLANEOUS OFFENSES (Continued)			
DISOBEDIENCE TO CONSTITUTED AUTHORITIES; DELIBERATE REFUSAL OR FAILURE OR DELAY IN CARRYING OUT ANY PROPER ORDER, WORK ASSIGNMENT OR INSTRUCTION; INSUBORDINATION, INCLUDING FAILURE TO FOLLOW LOCAL OR HIGHER LEVEL POLICY	Reprimand to removal	5-day suspension to removal	10-day suspension to removal
DISRESPECTFUL CONDUCT, USE OF INSULTING, ABUSIVE OR OBSCENE LANGUAGE TO OR ABOUT OTHER PERSONNEL	Reprimand to 5-day suspension	5-day suspension to removal	10-day suspension to removal
FALSIFICATION (OR AIDING OR ASSISTING IN FALSIFICATION) OF TIME AND ATTENDANCE RECORDS OR CLAIMS AGAINST THE GOVERNMENT	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
FALSIFICATION, MISSTATEMENT, OR CONCEALMENT OF MATERIAL FACT IN CONNECTION WITH ANY OFFICIAL RECORD	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
FALSE TESTIMONY OR REFUSAL TO TESTIFY IN AN INQUIRY, INVESTIGATION OR OTHER OFFICIAL PROCEEDING	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
LOAFING; WASTING TIME; INATTENTION TO DUTY; SLEEPING ON DUTY	Reprimand to 5-day suspension	5-day suspension to removal	10-day suspension to removal
MAKING THREATS TO OTHER EMPLOYEES OR SUPERVISOR; FIGHTING; ENGAGING IN DANGEROUS HORSEPLAY	Reprimand to removal	5-day suspension to removal	10-day suspension to removal
MISUSE OF A GOVERNMENT VEHICLE NOTE: 31 USC 1349(b) requires a minimum suspension of one month for misuse of a government vehicle even for the first offense, if the misuse was willful, i.e., employee acted either with knowledge that the intended use would be characterized as unofficial or with reckless disregard of whether such use was unofficial.	Reprimand to removal	30-day suspension to removal	Removal

OFFENSE		FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE
RECKLESS DRIVING OR IMPROPER OPERATIONS MOTOR VEHICLE:	CAUSING PERSONAL INJURY TO SELF OR OTHERS OR DAMAGE TO GOVERNMENT PROPERTY	Reprimand to Removal	14-day suspension to removal	30-day suspension removal
	CAUSING NO PERSONAL INJURY TO SELF OR OTHERS OR DAMAGE TO GOVERNMENT PROPERTY	Reprimand to 5-day suspension	Reprimand to 10-day suspension	14-day suspension to removal
UNAUTHORIZED POSSESSION, USE, LOSS OR DAMAGE TO GOVERNMENT PROPERTY OR THE PROPERTY OF OTHERS		Reprimand to removal	14-day suspension to removal	30-day suspension to removal
PROHIBITED PERSONNEL PRACTICE				
COMMITTING A PROHIBITED PERSONNEL PRACTICE(See 5 USC 2302)		Reprimand to removal	14-day suspension to removal	30-day suspension to removal
SAFETY				
FAILURE TO OBSERVE POSTED SMOKING PROHIBITIONS		Reprimand to removal	5-day suspension to removal	10-day suspension to removal
FAILURE TO USE PROTECTIVE CLOTHING OR EQUIPMENT		Reprimand to removal	5-day suspension to removal	10-day suspension to removal
VIOLATION OF SAFETY OR TRAFFIC REGULATIONS ON DUTY OR ON AN INSTALLATION (ON- OR OFF- DUTY) WHICH RESULTED IN:	INJURY TO SELF OR OTHERS OR DAMAGE TO PROPERTY OR ENDANGERING THE SAFETY OF SELF OR OTHERS	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
	NO INJURY OR PROPERTY DAMAGE; NOT ENDANGERING SAFETY OR SELF OR OTHERS	Reprimand to 5-day suspension	Reprimand to 10-day suspension	Reprimand to removal
SECURITY				
FAILURE TO SAFEGUARD CLASSIFIED MATERIAL WHEN SECURITY COMPROMISED		Reprimand to removal	14-day suspension to removal	Removal

OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE
SECURITY (Cont'd)			
FAILURE TO SAFEGUARD CLASSIFIED MATERIAL WHEN SECURITY NOT COMPROMISED	Reprimand to 5-day suspension	Reprimand to 14-day suspension	30-day suspension to removal
UNAUTHORIZED DISCLOSURE OR US OF PROTECTED MATERIAL			
UNAUTHORIZED DISCLOSURE OR USE OF INFORMATION OR OTHER PROTECTED MATERIAL (e.g. RECORDS COVERED BY THE PRIVACY ACT OR UNDER 42 CFR PART 2 (CEAP RECORDS))	Reprimand to removal	14-day suspension to removal	30-day suspension to removal

CHAPTER 752 CORRECTIVE, DISCIPLINARY AND ADVERSE ACTIONS

APPENDIX C CONDUCTING PRE-ACTION INVESTIGATIONS

1. The purpose of the pre-action investigation is to inquire into, discover, and report pertinent facts concerning a matter which may involve disciplinary or adverse action. The investigator's job is to impartially ascertain and obtain all available information and not to perfect a case against the employee. A written report of the investigator's findings should be made.
2. Pre-action investigations will normally be conducted by supervisors. However, someone else may be assigned to conduct an investigation.
3. An investigation should encompass any means necessary to gather the facts. Generally, interviews should be conducted individually and privately with the employee concerned except as modified by a negotiated agreement between activity management and a labor organization. Other employees or supervisors or witnesses should be interviewed privately when feasible. Written statements, pertinent documents and records should be obtained, as appropriate. A visual inspection of the worksite may be helpful. Any unusual condition or circumstance should be noted.
4. An employee in a unit represented by a labor organization who is being examined by a representative of management in connection with an investigation has the right to union representation when the employee reasonably believes that the examination may result in disciplinary action being taken against him/her, and if he/she requests such representation.
5. Every employee is obligated to furnish testimony or information to appropriately authorized DON and other Federal representatives in regard to official matters under inquiry arising under laws, rules, and regulations administered by the DON and other Federal agencies. Failure or refusal to furnish this testimony or information may in itself be the basis for disciplinary action.
6. As soon as practicable after the investigator is appointed, he/she should:
 - a. Contact the employee. The employee should be advised of:
 - (1) The pre-action investigation and the investigator's identity.
 - (2) The specific incident(s) being investigated.
 - (3) His/Her right to union representation, if specified in a negotiated agreement.
 - (4) His/Her right to make a statement and suggest witnesses to the investigator.
 - (5) The date, time and place of a meeting to interview the employee.

b. Secure as much evidence as possible by:

- (1) Interviewing known witnesses.
- (2) Reviewing documents.
- (3) Gathering any pertinent information.

c. Begin the interview by informing the employee of the:

- (1) Specific incident(s) being investigated.
- (2) Possibility that discipline may result from the investigation.
- (3) Right to make an oral or written statement and suggest witnesses for the investigator to interview.

d. Interview the employee. Absence of the employee does not stop the investigation. However, reasonable efforts must be made to give the employee an opportunity to present his/her case. Employees should be given reasonable opportunity to obtain a representative as provided for in negotiated agreements. The investigator should:

- (1) Obtain the employee's statement of all pertinent facts. There is no requirement to have statements typed, but handwritten statements must be clear and readable.
- (2) Note the presence of a representative or observer.
- (3) Obtain statements from witnesses suggested by the employee, if other than those in paragraph 6b(1) of this Appendix.
- (4) Inform the employee that he/she will be notified if any further action is taken.

e. Decide if further investigation is required.

f. Compile report.

g. If disciplinary action is considered necessary, a copy of the pre-action investigation should be furnished to Human Resources Office (HRO), Norfolk.

CHAPTER 752 CORRECTIVE, DISCIPLINARY AND ADVERSE ACTIONS

APPENDIX D SUPERVISOR'S GUIDE FOR CASES OF SUSPECTED INTOXICATION ON THE JOB

1. MEDICAL DETERMINATION

a. Only competent medical authority is qualified to conduct a medical examination relating to intoxication and render a judgment that medical attention is required. (See HRO Manual, Chapter 339.)

b. Upon completion of medical evaluation, management makes the determination as to appropriate course of action after considering all facts bearing on the individual case at hand.

2. SUPERVISORY DETERMINATION. As a general rule the immediate supervisor is the first to recognize a situation giving rise to suspicion of intoxication. Some, but not all, of the means of supervisory detection are as follows:

- a. Odor of intoxicants on an employee's breath;
- b. Red or bleary eyes or unusually dilated or restricted pupils;
- c. Unsteady walk or drowsiness/nodding;
- d. Slurred speech; and/or
- e. Unusual giddiness or loud talking.

3. STEPS TO FOLLOW AFTER SUPERVISORY DETERMINATION. In those situations where a supervisor finds an employee ingesting intoxicants while on duty, or appearing to be under the influence of intoxicants, or where the employee is behaving in such a manner as to suggest he/she is not "ready, willing and able to work," the supervisor should:

a. Summon another supervisor or responsible employee to witness the affected employee's behavior, physical appearance and response to the supervisor's questions and/or instructions.

b. In the presence of a witness, confiscate any intoxicating beverage the employee may have in his/her possession, giving him/her a receipt describing the contents, if known, and quantity. If the employee is reluctant to surrender the evidence, request assistance from base security.

c. The supervisor may either take the employee, or have the employee taken to the nearest Federal medical facility. After normal business hours, the employee should be taken to the Sewells Point Branch Clinic, or the Naval Medical Center, Portsmouth. Assistance from base security may be required in the event of transportation problems or when an employee becomes uncooperative. Competence for Duty Examination Form (NAVMED 6120/1) may be obtained upon arrival at the nearest Federal medical facility or is available in Appendix E of this Chapter.

d. Call the Labor/Employee Relations Department, HRO Norfolk and advise the specialist of what has taken place; guidance is available on the appropriate steps needed.

e. Following examination or observation, the supervisor should obtain an executed copy of the NAVMED 6120/1 from the attending medical authority. The supervisor should retain a copy and forward the original to the specialist with whom discussion was previously held, as noted in the above paragraph.

(1) If the employee is determined not to be under the influence of intoxicants, and is otherwise fit for duty, he/she should be returned to duty.

(2) If the medical examiner determines that the employee is under the influence of intoxicants, but not in need of any further medical attention, the employee will be sent home for failing to be "ready, willing and able to work." If the employee is found to need further immediate medical care, he/she will be referred to the appropriate community resource. In neither of these instances should the employee be allowed to leave the facility driving a motor vehicle. The employee shall be escorted to his/her place of residence or released to the custody of next of kin, a relative or friend, if possible. Should an intoxicated employee's conduct be such that he/she may constitute a hazard to himself/herself or others, base security should be requested to escort the employee off the station and to deliver him/her to the custody of the police.

NOTE: DON HAS ISSUED REGULATIONS GOVERNING "NAVY'S DRUG-FREE WORKPLACE." THESE REGULATIONS PROVIDE SUPERVISORS WITH GUIDANCE FOR CASES OF SUSPECTED DRUG ABUSE ON THE JOB WHICH DIFFER FROM THE ABOVE PROCEDURES. SEE CHAPTER 792, SUBCHAPTER 2 OF THIS MANUAL ON DON'S DRUG-FREE WORKPLACE PROGRAM.